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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/791,640	03/01/2004	Nelson J. Ferragut II	P05522US02	3086

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EXAMINER

NORMAN, MARC E

ART UNIT PAPER NUMBER

3744

DATE MAILED: 02/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/791,640

Applicant(s)

FERRAGUT ET AL.

Examiner

Marc E. Norman

Art Unit

3744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3,5,6,8-16 and 18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,5,6,8-16 and 18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Arguments*

Applicant's arguments with respect to claims 1-3, 5, 6, 8-16, and 18 have been considered but are moot in view of the new ground(s) of rejection.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-3, 5, 6, 8-16, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over McIntosh et al.

As per claim 1, McIntosh et al. teaches a method of monitoring power outages in a household appliance (medication clock 10) including determining a prior power outage to the appliance, determining the start and end points of the power outage, and alerting the user of the

Art Unit: 3744

start and end points of the power outage (see column 4, line 51 – column 5, line 5; column 16, lines 9-34; column 19, line 56 column 20, line 10). McIntosh et al. does not specifically teach calculating the duration of the outage, but that is a simple manipulation of the pertinent start/end points already provided. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify McIntosh et al. to alternatively display the difference between the start and end points as a duration for the purpose of user convenience (and further since, as discussed in previous Office Actions, the general concept of displaying outage durations is common and well-known in the art – see for example Abstract of Jindrick et al; Figure 1 of Malmsten).

As per claim 2, McIntosh et al. further teaches the appliance being associated with, although not directly incorporated in, a refrigerator (see for example column 3, line 67). It would have been obvious to one of ordinary skill in the art to integrally incorporate the clock of McIntosh et al. into a refrigerator in the instance where the medications being tracked are refrigerated.

As per claims 3 and 6, McIntosh et al. teaches RAM 58 continuously maintaining/tracking time (via microprocessor 54 with programmed clock) and using a time prior to the outage (outage start time) as a means to indicate the duration related data discussed regarding claim 1.

As per claim 5, McIntosh et al. teaches displaying the information (on a computer printout).

As per claim 8, McIntosh et al. teaches maintaining current time during the outage (via backup power supply 76).

As per claim 9, all the limitations of this claim have already been addressed above.

As per claim 10, in the case of a second outage, the system of McIntosh et al. would simply repeat the steps performed in the first outage. McIntosh is clearly designed to function during multiple outages.

As per claim 11, McIntosh et al. provides the start and stop times for each outage. McIntosh et al. does not specifically teach calculating the duration of each outage (or, thus, the cumulative outage), but (as already discussed regarding claim 1) that is a simple manipulation of the pertinent start/end points already provided. It would similarly have been obvious to one of ordinary skill in the art at the time the invention was made to modify McIntosh et al. to alternatively display the differences between the multiple start and end points as a cumulative duration for the purpose of user convenience.

As per claim 12, again, McIntosh et al. further teaches the appliance being associated with a refrigerator (see for example column 3, line 67).

As per claim 13, McIntosh et al. teaches an appliance 10 powered by external source 75, controller/clock 54, user interface 74, second power source 76, and the controller adapted to output the start and end of a power outage. Again (as discussed regarding claim 2, above), McIntosh et al. teaches the appliance being associated with, although not directly incorporated in, a refrigerator. It would have been obvious to one of ordinary skill in the art to integrally incorporate the clock of McIntosh et al. into a refrigerator in the instance where the medications being tracked are refrigerated. Also again (as discussed regarding claim 1, above), McIntosh et al. does not specifically teach calculating the duration of the outage, but that is a simple manipulation of the pertinent start/end points already provided. It would have been obvious to

Art Unit: 3744

one of ordinary skill in the art at the time the invention was made to modify McIntosh et al. to alternatively display the difference between the start and end points as a duration for the purpose of user convenience (and further since, as discussed in previous Office Actions, the general concept of displaying outage durations is common and well-known in the art – see for example Figure 1 of Malmsten).

As per claim 14, the printer output of McIntosh et al. is a display.

As per claims 15 and 16, McIntosh et al. teaches RAM 58 for storing time information.

As per claim 18, the duration of McIntosh is based on a stored time (outage start time) and a second real time (outage stop time) provided by the clock.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc E. Norman whose telephone number is 571-272-4812. The examiner can normally be reached on Mon.-Fri., 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Denise Esquivel can be reached on 571-272-4808. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3744

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MN

A handwritten signature in black ink, appearing to read 'M. Norman', with a stylized flourish at the end.

**MARC NORMAN  
PRIMARY EXAMINER**